

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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KYLE BAKER,

Plaintiff,

v.

LOWE'S HOME CENTERS, LLC,

Defendant.

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**NOTICE OF REMOVAL**

Civil Action #:

**TO: United States District Court  
Western District of New York**

Pursuant to 28 U.S.C. §1441 and 1332, the action entitled *Kyle Baker v. Lowe's Home Centers, LLC* commenced in the Supreme Court of the State of New York for the County of Monroe, Index Number E2022000117, is hereby removed by Defendant, Lowe's Home Centers, LLC (hereinafter "Lowe's" or "Defendant"), from the Supreme Court of the State of New York, County of Monroe to the United States District Court for the Western District of New York by the filing of this Notice of Removal with the Clerk of the United States District Court for the Western District of New York.

Defendant, by and through its attorneys, Goldberg Segalla LLP, respectfully states the following as grounds for removing this action:

**Procedural History**

1. On or about January 5, 2022, the above-captioned civil action was commenced in the Supreme Court of the State of New York, County of Monroe. Plaintiff's Summons and Complaint were assigned Index Number E2022000117 ("State Court Action").

2. An Index of all documents filed in the State Court Action is attached as **Exhibit A** pursuant to Local Rule 81(a)(3)(A). Copies of all pleadings and proceedings to date are attached as **Exhibit B**.

**Parties**

3. Plaintiff is a resident of Monroe County, State of New York.

4. Plaintiff is domiciled New York State and is therefore a citizen of New York for diversity purposes.

5. Defendant is incorporated under the laws of the state of North Carolina and has a principal place of business in North Carolina.

6. More specifically, Lowe's Home Centers, LLC, is a limited liability company organized under the laws of North Carolina and with a principal place of business at 1000 Lowe's Boulevard, Mooresville, North Carolina 28117.

7. The sole member of Lowe's Home Centers, LLC is Lowe's Companies, Inc.

8. Lowe's Companies, Inc. was incorporated under the laws of North Carolina and has a principal place of business at 1000 Lowe's Boulevard, Mooresville, North Carolina 28117.

9. Accordingly, full diversity exists between the parties.

**Jurisdiction**

10. This Court has subject-matter jurisdiction of the action pursuant to 28 U.S.C. § 1332 because it is a civil action between citizens of different states, and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

**Basis for Removal**

11. This Court has subject-matter jurisdiction on the basis of diversity of citizenship under 28 U.S.C. § 1332. Venue is proper pursuant to 28 U.S.C. § 1441(a) because this is the federal district court for the district embracing the place where the state court suit is pending.

12. Though the Complaint does not state the amount of damages that will be sought, in response to Lowe's discovery demands, plaintiff has claimed damages in the amount of \$1 million. Therefore, it is Lowe's good faith belief that the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. Plaintiff's response to Lowe's Demand

pursuant to CPLR §3017(c) dated February 24, 2022 is attached as **Exhibit C**.

13. Lowe's has timely brought this Notice of Removal within 30 days of its receipt of plaintiff's response to Lowe's Demand pursuant to CPLR §3017(c). *See* 28 U.S.C. § 1446(b). Prior to plaintiff's February 24, 2022 response (attached as Exhibit C), Lowe' had no pleading, amended pleading, motion, order, or other paper from which it could ascertain that the case was removable.

14. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon plaintiff, by and through his attorneys of record, and is being filed with the Clerk of the Court of the State of New York, Supreme Court, County of Monroe.

15. No previous application has been made for the relief requested herein.

**WHEREFORE**, Defendant files this Notice of Removal so that the State Court Action bearing Index No. E2022000117 now pending in the State of New York, Supreme Court, County of Monroe be removed to this court for all further proceedings.

Dated: Buffalo, New York  
March 24, 2022

GOLDBERG SEGALLA LLP

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